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PERMITS BRANCH
6WQ-P

December 20, 2012

Ms. Claudia Hosch, Chief
NPDES Permits Branch (6WQ-P)
Water Quality Division
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

Re: NPDES Permit Application NM0028355 – Los Alamos National Security, LLC / U.S. Department of Energy – Los Alamos National Laboratory (LANL)

Dear Ms. Hosch:

The New Mexico Environment Department Surface Water Quality Bureau (SWQB) is in receipt of the referenced National Pollutant Discharge Elimination System (NPDES) permit application. The purpose of this letter is to assist the Environmental Protection Agency (EPA) in drafting the NPDES permit for this facility regarding one topic, polychlorinated biphenyl (PCB) testing. Our intent at this stage of the process is to describe the basis of review that will be performed by the SWQB for purposes of certification in accordance with Clean Water Act Section 401 at the time the Environment Department receives the proposed permit from EPA with a request for formal certification.

In accordance with the New Mexico Water Quality Act [Chapter 74, Article 6, NMSA 1978 Annotated] the New Mexico Water Quality Control Commission (WQCC) has adopted "Standards for Interstate and Intrastate Surface Waters" (aka the "Water Quality Standards" hereafter "WQS") which are codified at 20.6.4 NMAC. The WQCC adopted WQS also serve the purpose of Section 303 of the Clean Water Act [33 U.S.C. 1251 et seq.]. The New Mexico WQS are available on the Internet at:

<http://www.nmcpr.state.nm.us/nmac/parts/title20/20.006.0004.htm>.

SWQB understands that EPA is still formulating a draft permit for this facility. This permit will supersede and replace permit NM0028355 effective August 1, 2007, which expired on July 31, 2012. SWQB also understands the EPA may be contemplating changes to certain conditions included by EPA in response to SWQB's conditional certification of the expired permit dated

March 30, 2006 (and amended by correspondence dated February 1, 2007). Among other conditions, SWQB required inclusion of specific discharge monitoring requirements for PCBs from outfalls 001, 13S (when the discharge is to Canada del Buey), and certain other outfalls that reuse effluent from the TA-46 Sanitary Wastewater System (SWWS) Plant to ensure such discharges comply with applicable State water quality criteria (WQC), stating:

NMED therefore requires as condition of this certification that the proposed permit specify that PCB analyses be conducted in accordance with EPA's published *Method 1668 Revision A* and that MQLs be determined in an appropriate manner with reporting instructions adequate to ensure protection of state numeric water quality criteria for PCBs as follows:

Amend Part II – Other Conditions (beginning on page 1 of part 2) to require EPA Method 1668 Revision A: Chlorinated Biphenyl Congeners in Water, Soil, Sediment, and Tissue by HRGC/HRMS [EPA No EPA-821-R-00-002] as the analytical test protocol for all PCB analysis for purposes of this permit.

Amend Part II – Other Conditions Paragraph A regarding Minimum Quantification Levels by striking the PCB 1 µg/L MQL and substituting clarification that the permittee shall determine a “Discharge Specific Quantification Level” according to the EPA Region 6 policy (i.e., following the 40 CFR 136 Appendix B to determine the minimum detection level (MDL) and that the MQL = 3.3 X MDL).

EPA included language in the final permit to address this condition and established effluent limits at the above referenced outfalls based on the state human health criterion for PCBs (0.00064 µg/l). EPA also included a compliance schedule for the attainment of state water quality standards-based final effluent limitations for PCBs. The compliance schedule required the permittees to “[c]omplete corrective actions and comply with final effluent limitations per EPA approved schedule or one (1) day before the expiration date of the permit, whichever comes first” (July 30, 2012). The issue of concern is unchanged at this point in time with regard to the need for a permit requirement that all PCB monitoring (including monitoring of discharges from the above outfalls, runoff from sludge disposal areas, for purposes of reasonable potential analyses, etc.) at this facility be conducted utilizing Method 1668 (Congener Method) most recent revision thereof, as well as a requirement for the permittee to determine a “Discharge Specific Quantification Level” according to the EPA Region 6 policy (i.e., following the 40 CFR 136 Appendix B to determine the minimum detection level (MDL) and that the MQL = 3.3 X MDL).

SWQB acknowledges that the requirement to use Method 1668 is controversial and has been opposed and appealed by LANL in both the certification/issuance of the expired NPDES Permit #NM0028355 and NMED's request for EPA approval of the method for inclusion under 40 CFR 136. However, SWQB continues to believe that employment of Method 1668 is necessary and appropriate as a condition in this permit so as to assure the permit is protective of the State's WQS.

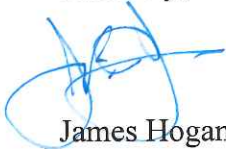
In consideration of all of the above, the State will condition the permit certification to require the use of Method 1668, most recent revision thereof, with appropriate method specific MQLs, for purposes of PCB monitoring.

This letter does not constitute the State's final certification of this permit application pursuant to Section 401 of the Clean Water Act. The SWQB will review the EPA's proposed permit, when available, for purpose of State certification, consistent with past practices. The State certification issued by the New Mexico Environment Department pursuant to Section 401 will be based upon New Mexico's water quality standards and applicable State Law.

SWQB is taking this opportunity to advise you of the above so that you are aware of how the State will review and if necessary conditionally certify or deny a permit proposed by your agency. We hope this will allow your agency to consider these requirements in advance and thus avoid delays or problems.

If you have any questions, please contact me at (505) 476-3671 or by e-mail at james.hogan@state.nm.us or Rich Powell of my staff at (505) 827-2798 or by e-mail at richard.powell@state.nm.us.

Sincerely,



James Hogan
Acting Bureau Chief
Surface Water Quality Bureau

cc:

Dr. James H. Davis, Director, Resource Protection Division, NMED

Via Certified Mail (# 7011 3500 0000 0326 0020)

Mr. Donald L. Winchell, Jr., Manager, Department of Energy, National Nuclear Security Administration, Los Alamos Site Office, A316, 3747 West Jemez Road, Los Alamos, NM 87544

Via Certified Mail (# 7011 0110 0000 9531 4601)

Mr. Richard S. Watkins, Associate Director, Los Alamos National Security, LLC, P.O. Box 1663, K491, Los Alamos, NM 87545

Mr. Gene Turner, DOE/AIP/POC via email

Mr. Anthony R. Grieggs, LANS, LLC via email